

Article - Real Property

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§7–105.18.

(a) In this section, “residential property” has the meaning stated in § 7–105.1 of this subtitle.

(b) (1) A secured party may petition the circuit court for leave to immediately commence an action to foreclose a mortgage or deed of trust on residential property on the basis that the property is vacant and abandoned as provided in this section.

(2) On filing a petition under this section, the secured party shall send a copy of the petition to the mortgagor’s or grantor’s last known address and the record owner of the property by certified mail, return receipt requested, and first-class mail.

(3) The circuit court shall rule on the petition promptly after the petition is filed.

(c) A residential property is vacant and abandoned under this section if all of the following criteria apply to the property:

(1) The court finds that the mortgage or deed of trust on the residential property has been in default for 120 days or more in a condition on which the mortgage or deed of trust provides that a sale may be made;

(2) The court finds that at least three of the circumstances listed in subsection (d) of this section are true as to the property;

(3) No mortgagor or grantor has filed with the court an answer or objection setting forth a defense or objection that, if proven, would preclude the entry of a final judgment and a decree of foreclosure; and

(4) No mortgagor or grantor has filed with the court a written statement that the property is not vacant and abandoned.

(d) The circumstances of a residential property that a court may find are true under subsection (c)(2) of this section are:

(1) Gas, electric, sewer, or water utility services to the property have been disconnected;

(2) Windows or entrances to the structure on the property are boarded up or closed off, or multiple window panes are broken and unrepaired;

(3) Doors to the structure on the property are smashed through, broken off, unhinged, or continuously unlocked;

(4) Junk, litter, trash, debris, or hazardous, noxious, or unhealthy substances or materials have accumulated on the property;

(5) Furnishings, window treatments, or personal items are absent from the structure on the property;

(6) The property is the object of vandalism, loitering, or criminal conduct, or there has been physical destruction or deterioration of the property;

(7) A mortgagor or grantor has made a written statement expressing the intention of all mortgagors or grantors to abandon the property;

(8) There is a determination that no owner or tenant appears to be residing on the property at the time of an inspection of the property by the secured party;

(9) Two or more citations have been issued by a county or municipal corporation against the property for failure to maintain the property and a health and safety issue exists that has not been rectified;

(10) The property has been condemned by a county or municipal corporation; or

(11) Other reasonable indicia of abandonment exist.

(e) (1) If the court finds that a residential property is vacant and abandoned and the secured party filing a petition for leave to file an action for immediate foreclosure is entitled to judgment, the court shall grant the petition.

(2) Except as provided under subsection (f) of this section, if the court grants the petition under paragraph (1) of this subsection, § 7–105.1 of this subtitle does not apply to an action to foreclose a mortgage or deed of trust on the residential property that is found to be vacant and abandoned.

(f) (1) A secured party filing an order to docket or complaint to foreclose based on a petition granted by a court under subsection (e)(1) of this section shall

serve the foreclosure documents, accompanied by the document required under paragraph (4) of this subsection, by:

(i) Personal delivery of the papers to the mortgagor or grantor;
or

(ii) Leaving the papers with a resident of suitable age and discretion at the mortgagor's or grantor's dwelling house or usual place of abode.

(2) If at least two good faith efforts on different days to serve the mortgagor or grantor under paragraph (1) of this subsection have not succeeded, the secured party may effect service by:

(i) Filing an affidavit with the court describing the good faith efforts to serve the mortgagor or grantor; and

(ii) 1. Mailing a copy of all the documents required to be served under paragraph (1) of this subsection by certified mail, return receipt requested, and first-class mail to the mortgagor's or grantor's last known address and, if different, to the address of the residential property subject to the mortgage or deed of trust; and

2. Posting a copy of all the documents required to be served under paragraph (1) of this subsection in a conspicuous place on the residential property subject to the mortgage or deed of trust.

(3) The individual making service of documents under this subsection shall file proof of service with the court in accordance with the Maryland Rules.

(4) The service of documents under paragraph (1) of this subsection shall be accompanied by a separate, clearly marked notice, in the form prescribed by regulations adopted by the Commissioner of Financial Regulation, that states:

(i) The significance of the order to docket or complaint to foreclose; and

(ii) The right of a record owner or occupant of the property to challenge the finding that the residential property is vacant and abandoned.

(5) (i) A challenge to the finding that the residential property is vacant and abandoned shall be filed with the court in the foreclosure proceeding not later than 20 days after service is made under this subsection.

(ii) If a timely filed challenge under this subsection is upheld, the secured party shall comply with the requirements of § 7–105.1 of this subtitle.

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